

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

---

KATHRYN KNOWLTON, et al.,

Plaintiffs,

v.

Case No. 2020-CV-01660

CITY OF WAUWATOSA, et al.,

Defendants.

---

**DECLARATION OF KILEY B. ZELLNER IN SUPPORT OF DEFENDANTS'  
MOTION FOR SANCTIONS PURSUANT TO RULE 11**

---

STATE OF WISCONSIN    )  
                                      )ss.  
MILWAUKEE COUNTY    )

Kiley B. Zellner, being first duly sworn on oath, deposes and says:

1.       That declarant is an adult resident of the State of Wisconsin and Attorney with Wirth + Baynard, attorney for the defendants in the above-captioned matter.

2.       That I make this declaration upon personal knowledge and in support of Defendants' Motion for Sanctions against Plaintiffs and their attorneys, Kimberley Cy. Motley, Kathryn Knowlton, and E. Milo Schwab.

3.       That on or about February 15, 2022, Plaintiffs filed a Fourth Amended Summons and Complaint in the above-captioned case.

4.       That I have reviewed the Fourth Amended Summons and Complaint and believe that the document contains false and baseless allegations regarding my clients.

5.       On or about March 28, 2022, I sent a "safe harbor" letter to Attorneys Kimberley Cy. Motley, Kathryn Knowlton, and E. Milo Schwab, with a proposed Motion for Sanctions Pursuant to

Rule 11, regarding the frivolous, dilatory, and without merit claims not backed by law, proffering factual allegations, and claims they know to be false. Those documents are attached hereto as **Exhibit A** and **Exhibit B** respectively.

6. Instead of withdrawing the claims, none of the attorneys responded.

7. In answer to counsel's maintaining of the frivolous claims, Defendants filed its Motion to Dismiss these claims on April 19, 2022.

8. The false and baseless allegations required substantial investigation—including requesting and reviewing the municipal court records of Plaintiffs. In addition, addressing the false and baseless allegations required drafting a safe harbor letter with proposed Motion for Sanctions, researching Rule 11 of the Federal Rules of Civil procedure, drafting the second Motion to Dismiss, and time spent having to draft and file this current motion.

9. During discovery in this matter, Plaintiffs were provided with a search warrant application for Talevia Cole's phone bearing Bates Nos. DEFS' RPD 016939 – 016954 which is attached as **Exhibit C**. Plaintiffs also deposed Det. Joseph Lewandowski, who drafted the search warrant affidavit and testified he submitted the document to a Milwaukee County District Attorney for approval.

10. In light of the false, unsupported allegations made and maintained by the plaintiffs, and the plaintiffs' failure, along with their attorneys, to undertake an adequate investigation before making these serious accusations, Defendants request that the Court impose appropriate sanctions upon the plaintiffs and their attorneys, Kimberley Cy. Motley, Kathryn Knowlton, and E. Milo Schwab, in order to deter them from filing similar pleadings containing serious, false accusations with this Court in the future.

11. I request that that Court order that the plaintiffs and their counsel be liable for the Defendants' reasonable attorney's fees and other expenses resulting from their violation of Fed. R. Civ. P. 11, including Defendants' costs and attorney's fees in filing and pursuing this Motion for Sanctions.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated this 20<sup>th</sup> day of April, 2022.

/s/ Kiley B. Zellner  
Kiley B. Zellner